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# Civil Society's Involvement in Post-Conflict Peacebuilding

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## Civil Society's Involvement in Post-Conflict Peacebuilding

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# Civil Society's Involvement in Post-Conflict Peacebuilding

Corrine Parver and Rebecca Wolf

## Abstract

War is a way of life – in some parts of the world it is an on-going struggle with no end in sight. Years of perpetual conflict have adversely affected the way in which political, socio-economic, and cultural components of society have developed. Indeed, armed conflict negatively affects all aspects of society: not only does it destroy buildings and societies, but it also leaves surviving individuals and communities with deep wounds that can last a lifetime.

Many efforts have been employed around the world to build peace following a conflict. Some interventions have proven quite successful, while others have not. Notably, civil society involvement is one of the most important factors in determining whether a post-conflict peacebuilding initiative will be successful. Efforts put forth by local government officials or the international community likely will be unsuccessful in post-conflict peacebuilding absent civil involvement, and without a societal belief that these measures are beneficial. Further, an involved civil society is important to hold governments accountable for their actions, strengthen public policies, and develop the community following a conflict.

This article describes post-conflict societies, discusses civil society generally and in post-conflict settings, provides an overview of legal and reconciliation approaches, discusses approaches alternative to legal approaches to post-conflict peacebuilding, and suggests that “building a culture of peace” is a way in which various players with an interest in post-conflict peacebuilding can influence societies to handle conflicts peacefully. Throughout, the article highlights the important role that civil society plays in post-conflict peacebuilding efforts.

**KEYWORDS:** Peacebuilding, Peace

# **Civil Society's Involvement in Post-Conflict Peacebuilding**

CORRINE PARVER, ESQ.<sup>\*</sup> & REBECCA WOLF<sup>\*\*</sup>

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### **I. Introduction**

War is a way of life – in some parts of the world it is an on-going struggle with no end in sight.<sup>1</sup> Years of perpetual conflict have adversely affected the way in which political, socio-economic, and cultural components of society have developed.<sup>2</sup> Indeed, armed conflict negatively affects all aspects of society: not only does it destroy buildings and societies, but it also leaves surviving individuals and communities with deep wounds that can last a lifetime.

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<sup>1</sup> Derek Summerfield, *The Impact of War and Atrocity on Civilian Populations: Basic Principles for NGO Interventions and a Critique of Psychosocial Trauma Projects*, Overseas Development Institute, 20 (1996), available at [http://www.sheltercentre.org/shelterlibrary/items/pdf/Impact\\_Of\\_War\\_And\\_Atrocियोn\\_Civilians.pdf](http://www.sheltercentre.org/shelterlibrary/items/pdf/Impact_Of_War_And_Atrocियोn_Civilians.pdf) (last visited Dec. 16, 2007).

<sup>2</sup> *Id.*

Many efforts have been employed around the world to build peace following a conflict. Some interventions have proven quite successful, while others have not. Notably, civil society involvement is one of the most important factors in determining whether a post-conflict peacebuilding initiative will be successful. Efforts put forth by local government officials or the international community likely will be unsuccessful in post-conflict peacebuilding absent civil involvement, and without a societal belief that these measures are beneficial. Further, an involved civil society is important to hold governments accountable for their actions, strengthen public policies, and develop the community following a conflict.<sup>3</sup>

This article describes post-conflict societies, discusses civil society generally and in post-conflict settings, provides an overview of legal and reconciliation approaches, discusses approaches alternative to legal approaches to post-conflict peacebuilding, and suggests that “building a culture of peace” is a way in which various players with an interest in post-conflict peacebuilding can influence societies to handle conflicts peacefully. Throughout, the article highlights the important role that civil society plays in post-conflict peacebuilding efforts.

## II. Post-Conflict Societies

Civil wars and state subjugation have left many nations devastated. Armed conflict drastically affects the lives of all individuals in a society: it changes individuals’ beliefs and actions, and shifts the balance of power in society at the local and state level.<sup>4</sup> Armed conflict negatively affects prospects for civil society involvement because conflict destroys physical infrastructure, limiting communication potential and dispersing community members. Further, it weakens state actors’ abilities to govern; disrupts security and creates a sense of lawlessness; suppresses basic human rights and limits activities of civil society; and limits access to media and communication.<sup>5</sup> Finally, conflict erodes trust and destroys communal feelings which existed previously.

Experience with war causes people to become insecure and fearful, hindering their ability to participate in community activism. Further,

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<sup>3</sup> Thania Paffenholz & Christoph Spurk, *Civil Society, Civic Engagement, and Peacebuilding*, 36 Soc. Dev. Papers: Conflict Prevention & Reconstruction 1, 1 (2006).

<sup>4</sup> Paffenholz, *supra* note 3, at 11.

<sup>5</sup> *Id.* at 14.

economic decline, stress, and violence may cause groups to separate among ethnic and racial lines as a coping mechanism. Given that, and due to the profound affect of conflict on communities and individuals, civil society plays a critical role in the rebuilding and reconstruction process in a post-conflict environment.<sup>6</sup>

Experts define civil society as the voluntary actions of individuals who share common beliefs and values.<sup>7</sup> This definition includes the voluntary actions of individuals as separate entities from the state, family and market, and other non-state actors and associations.<sup>8</sup> While debate exists about whether the Western concept of civil society applies also to developing nations,<sup>9</sup> common functions of civil society include: protecting citizens; holding government leaders accountable for their actions; advocating public interest; socializing citizens' behavior; building community; mediating between citizens and state actors; and delivering services necessary for the functioning of society.<sup>10</sup>

Common functions of civil society include: protecting citizens; holding government leaders accountable for their actions; advocating public interest; socializing citizens' behavior; building community; mediating between citizens and state actors; and delivering services necessary for the functioning of society.<sup>11</sup> Although civil society cannot fulfill all roles that a state plays in a post-conflict setting, civil society leaders and organizations provide an important perspective that sheds light on a particular community's needs and cultural characteristics. Studies have found that civil society involvement is one of the most important factors in determining whether post-conflict initiatives will be successful and sustainable.<sup>12</sup>

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<sup>6</sup> Kees Koonings, *Civil Society, Transitions, and Post-War Reconstruction in Latin America: A Comparison of El Salvador, Guatemala, and Peru*, Utrecht University, 14 (2001), available at <http://sociology.nuim.ie/documents/kees.pdf> (last visited Dec. 16, 2007).

<sup>7</sup> London School of Economics Centre for Civil Society, available at <http://www.lse.ac.uk/collections/CCS/introduction.htm> (last visited Dec. 16, 2007).

<sup>8</sup> Paffenholz, *supra* note 3, at 3.

<sup>9</sup> *Id.* at 6.

<sup>10</sup> *Id.* at 7.

<sup>11</sup> *Id.* at 8.

<sup>12</sup> Darren Kew & Anthony Wanis-St. John, *The Missing Link? Civil Society & Peace Negotiations*, Paper presented at the 47<sup>th</sup> Annual Convention of the International Studies Association, San Diego, March 23, 2006, available at [http://www.allacademic.com/meta/p100264\\_index.html](http://www.allacademic.com/meta/p100264_index.html) (last visited Dec. 16, 2007).

A blanket “one-size fits all” scenario for all post-conflict situations does not exist, since each conflict has a variety of unique attributes. An intervention that might be quite effective in one community could be completely ineffective in another. For example, in post-apartheid South Africa, forgiveness, repentance and reconciliation were effective in the religious-based Truth and Reconciliation Commission led by Archbishop Desmond Tutu. This combination of intervention tactics proved successful because, after apartheid ended, teachings of the church survived, thus making pardon possible.<sup>13</sup> Such a religious-based intervention, however, would not have been effective in Rwanda following the genocide there because Rwandan spiritual leaders actually participated in the genocide.<sup>14</sup>

While government or international leaders may be unaware of the importance of the cultural context in which they are implementing post-conflict initiatives, civil society involvement will provide the cultural context and understanding of particular community attributes.<sup>15</sup> Despite its important role, civil society needs to act in concert with and not replace state functions, thus creating a way in which citizens become active players in their society in order to ensure that their interests are protected and governmental initiatives are culturally appropriate to a particular situation.<sup>16</sup>

Attitudes and actions of individuals and communities can profoundly influence the long-term prospects of a variety of reconciliation and peace-building efforts. Post-conflict peacebuilding includes actions ‘to identify and support structures which will tend to strengthen and solidify peace in order to avoid a relapse into conflict’<sup>17</sup> and to establish necessary conditions to sustain peace in post-conflict societies.<sup>18</sup> In 1992, the United Nations Secretary-

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<sup>13</sup> Lyn Graybill, *Pardon, punishment, and amnesia: three African post-conflict methods*, 25 Third World Q. 1117, 1118 (2004).

<sup>14</sup> Alison Des Forges, *Leave None to Tell the Story: Genocide in Rwanda*, 245-48 (Human Rights Watch 1999).

<sup>15</sup> *Civil Society and Peacebuilding: Potential, Limitations and Critical Factors*, Report No. 36445-GLB, The World Bank: Social Development Department Sustainable Development Network (2006), 7, available at [http://siteresources.worldbank.org/EXTSOCIALDEVELOPMENT/Resources/244362-1164107274725/3182370-1164110717447/Civil\\_Society\\_and\\_Peacebuilding.pdf](http://siteresources.worldbank.org/EXTSOCIALDEVELOPMENT/Resources/244362-1164107274725/3182370-1164110717447/Civil_Society_and_Peacebuilding.pdf) (last visited Dec. 16, 2007).

<sup>16</sup> Paffenholz, *supra* note 3, at 14.

<sup>17</sup> Boutros Boutros Ghali, *An Agenda for Peace*, 11 (United Nations, 1992).

<sup>18</sup> Carlos Santiso, *Promoting Democratic Governance and Preventing the Recurrence of Conflict: The Role of the United Nations Development Programme in Post-conflict Peace-Building*, 34 J. Latin Am. Stud. 555, 557 (2002).

General Boutros Boutros-Ghali introduced the term “peacebuilding,” which has subsequently been used widely in the international community.<sup>19</sup> Peacebuilding, a broad term that refers to an on-going process that addresses a variety of activities, encompasses the twin goals of preventing future conflicts and developing ways to deal with conflicts peacefully.<sup>20</sup> Its aims are to change the social structures underlying the conflict and alter the attitudes of the parties to the conflict.<sup>21</sup> Peacebuilding efforts include: disarming former combatants; establishing a sense of order in society; confiscating weapons; finding homes for refugees; training and supporting security forces; initiating and monitoring elections; protecting human rights; strengthening leadership; and encouraging political participation.<sup>22</sup>

Peace may be viewed from two different perspectives: negative peace, in which there is a cessation of violence; and positive peace, in which society is peaceful on all levels -- not merely an absence of violence.<sup>23</sup> While some post-conflict countries have ended violence, their failure to establish more legitimate governance, economic growth, or reconciliation demonstrates that they have reached negative peace, but fall short of reaching positive peace.<sup>24</sup> Positive peace is not just the absence of war, but it is enjoyment of justice, equality, human rights, and fundamental freedoms. Positive peacebuilding can include a variety of activities, such as: “negotiations, peace keeping, trauma healing, poverty reduction, democratization.”<sup>25</sup>

Three phases of peacebuilding include: prevention of armed conflict; management of conflict; and post-conflict peacebuilding.<sup>26</sup> Conflict

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<sup>19</sup> Boutros Boutros Ghali, *An Agenda for Peace*, 11 (United Nations, 1992).

<sup>20</sup> Paffenholz, *supra* note 3, at 15.

<sup>21</sup> Norbert Ropers, *Peaceful Intervention: Structures, Processes and Strategies for the Constructive Resolution of Ethnopolitical Conflicts*, Berghof Research Center for Constructive Conflict Management (1995), available at <http://www.berghof-center.org/uploads/download/br1e.pdf> (last visited Dec. 16, 2007).

<sup>22</sup> Boutros Boutros-Ghali, *Supplement to an agenda for peace: Position paper of the Secretary-General on the Occasion of the Fiftieth Anniversary of the United Nations* (United Nations 1995)

<sup>23</sup> Johan Galtung, *Violence, Peace, and Peace Research*, 6, J. Peace Res. 167, 170 (1969).

<sup>24</sup> Michael Lund, *What Kind of Peace is Being Built?: Taking Stock of Post-Conflict Peacebuilding and Charting Future Directions*, Management Systems International, Inc. and Center for Strategic and International Studies, 33 (2003), available at [http://www.idrc.ca/uploads/user-S/10527469720lund\\_final\\_-mar\\_20.pdf](http://www.idrc.ca/uploads/user-S/10527469720lund_final_-mar_20.pdf) (last visited Dec. 16, 2007).

<sup>25</sup> Paffenholz, *supra* note 3, at 16.

<sup>26</sup> *Id.* at 15-16.



resolution involves both peacebuilding and rebuilding of physical structures; it is not simply ending armed conflict, but identifying underlying societal structures that first led to the conflict.<sup>27</sup> In post-war rebuilding, civil society specifically can play an important role by monitoring the implementation of the peace agreements and the related reform agenda; strengthening transition to democracy; and helping to organize and apply plans for physical, economic and institutional reconstruction.<sup>28</sup>

### III. Justice and Rule of Law in Post-Conflict Peacebuilding

An important component of post-conflict peacebuilding is implementation of justice and the rule of law. If individuals affected by a conflict do not believe that justice has been served after atrocities have been committed, then it will be difficult, if not impossible, for society to move forward following a conflict. Promoting social justice and reconciliation among individuals who have been affected by the conflict is a societal imperative.<sup>29</sup> As such, in post-conflict society, building the rule of law is of the utmost importance.<sup>30</sup> "Everything else depends on it: a functioning economy, a free and fair political system, the development of civil society, public confidence in the police and the courts."<sup>31</sup> If atrocities are not dealt with and perpetrators are not brought to justice, new cycles of violence easily erupt.<sup>32</sup> Thus, re-establishing trust and enforcing justice become the most important aspects of reconciliation. Feelings of anger and mistrust between former adversaries obstruct community rebuilding and development.<sup>33</sup> Unresolved past injustices often become the source of subsequent outbreaks of violence.<sup>34</sup>

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<sup>27</sup> Koonings, *supra* note 6, at 14.

<sup>28</sup> *Id.* at 15.

<sup>29</sup> Monica Llamazares, *Post-War Peacebuilding Reviewed: A Critical Exploration of Generic Approaches to Post-war Reconstruction*, University of Bradford Centre for Conflict Resolution Department of Peace Studies, 6 (2005), available at <http://www.brad.ac.uk/acad/confres/papers/pdfs/CCR14.pdf> (last visited Dec. 16, 2007).

<sup>30</sup> David Tolbert & Andrew Solomon, *United Nations Reform and Supporting the Rule of Law in Post-Conflict Societies*, 19 Harv. Hum. Rts. J. 29, 30 (2006).

<sup>31</sup> Paddy Ashdown, *What I Learned in Bosnia*, N.Y. Times, Oct. 28, 2002, at A2.

<sup>32</sup> Gunnar Theissen, *Supporting justice, Co-existence and Reconciliation after Armed Conflict: Strategies for Dealing with the Past*, Berghof Research Centre for Constructive Conflict Management (2004), available at <http://www.berghof-handbook.net> (last visited Dec. 16, 2007).

<sup>33</sup> Fergus Lyon, *Trust, Networks and Norms: The Creation of Social Capital in Agricultural Economies of Ghana*, 28 World Dev. 663, 664 (2000).

<sup>34</sup> Theissen, *supra* note 32.

The criminal justice system is particularly important in dealing with past injustices and finding a peaceful settlement to prevent eruption of future conflicts.<sup>35</sup> Victims of violence may forgive their wrong-doers if their suffering is fully acknowledged.<sup>36</sup> Given that, justice seeking develops as a necessary component of peacebuilding.<sup>37</sup> Communities will be unable to build true peace until perpetrators of violence are put to justice.

Under international law, a state has the duty to restore justice. Restorative justice is somewhat of a novel approach that states more recently taken to resolve former conflicts -- it focuses on reconciliation, rather than punishment, to re-establish equilibrium in society.<sup>38</sup> "Reparations may contribute to the reintegration of victims and reduce the likelihood of renewed armed confrontation, by officially recognizing the harm victims had to endure."<sup>39</sup> The Truth and Reconciliation Commission (TRC), for example, focused on allowing reparations to victims who experienced human rights abuses regardless of whether or not they were able to locate the perpetrator. In doing so, the TRC formally acknowledged the suffering that the victim had experienced.<sup>40</sup>

Five goals for any justice process are retribution, deterrence, rehabilitation, restoration, and condemnation/social solidarity.<sup>41</sup> A state is required to: establish truth about gross human rights violations, including information about the victims, and identification for perpetrators of human rights abuses; make efforts to reform state institutions to prevent future human rights abuses; provide reparations to victims for harm they have suffered; and punish those who committed human rights abuses.<sup>42</sup> State actors are not the only entities that play an important role in post-conflict justice initiatives. Local and international human rights organizations also play a critical role in establishing and implementing the justice system and the rule of law.<sup>43</sup>

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<sup>35</sup> *Id.* at 1.

<sup>36</sup> *Id.*

<sup>37</sup> Llamazares, *supra* note 30, at 31.

<sup>38</sup> Lyn Graybill & Kimberly Lanegran, *Truth, Justice, and Reconciliation in Africa: Issues and Cases*, 8 Afr. Stud. Q. 1, 1 (2004).

<sup>39</sup> Theissen, *supra* note 32, at 4.

<sup>40</sup> Payl van Zyl, *Dilemmas of Transitional Justice: The Case of South Africa's Truth and Reconciliation Commission*, 52 J. of Int'l Aff. 1, 1 (1999).

<sup>41</sup> Elizabeth Evenson, *Truth and Justice in Sierra Leone: Coordination between Commission and the Court*, 104 Colum. L. Rev. 730, 734 (2004).

<sup>42</sup> van Zyl, *supra* note 40, at 11.

<sup>43</sup> Theissen, *supra* note 32, at 13.

### A. Justice Systems and the Rule of Law

The United Nations defines rule of law as follows:

The rule of law is a concept at the very heart of the Organization's mission. It refers to a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency.<sup>44</sup>

Investigation and punishment of perpetrators of atrocities such as gross human rights violations, genocide, war crimes, and crimes against humanity are becoming increasingly accepted and supported by the international community and international law.<sup>45</sup> International justice systems also serve an important role because they communicate to political and military leaders that they will be subject to prosecution if they engage in violations of human rights or international laws.<sup>46</sup> Further, they ensure neutrality and establish a high level of standard procedure.<sup>47</sup>

Despite their benefit, international legal systems can be quite limited in their ability to fully address human rights abuses that occur throughout the world. Two primary limitations of international legal systems are: difficulty for the international legal system to have jurisdiction over these individuals, since oftentimes it is powerful leaders who are responsible for committing human rights violations; and usually only a small fraction of the perpetrators will be convicted due to paucity of financial resources.<sup>48</sup> For example, the International Criminal Tribunal for the former Yugoslavia (ICTY) only had enough resources to try those who had committed the worst atrocities, thus

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<sup>44</sup> The Secretary-General, *Report of the Secretary-General: The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies*, para. 6, U.N. Doc S/2004/616 (Aug. 23, 2004).

<sup>45</sup> Theissen, *supra* note 32, at 1.

<sup>46</sup> van Zyl, *supra* note 40, at 19.

<sup>47</sup> Theissen, *supra* note 32, at 2.

<sup>48</sup> van Zyl, *supra* note 40, at 19.

neglecting to prosecute many individuals who committed less serious crimes.<sup>49</sup>

Further, international justice systems will likely not have a direct or substantive impact on local peace building.<sup>50</sup> Indeed, they may lack cultural sensitivity, full understanding of the context underlying the conflict, and knowledge of local language.<sup>51</sup> Community members may feel detached from or confused by an international justice system, and will not believe that justice has been done even if a perpetrator is convicted. An empirical study in Bosnia and Herzegovina about local perceptions of the ICTY suggests that lawyers and judges from a variety of ethnic backgrounds were not well-informed about the ICTY's work. Thus, they were suspicious about the purpose and consequence of the ICTY.<sup>52</sup> Those persons who conducted the study note that suspicions surrounding the ICTY were likely due to the distance between the tribunal (in The Hague) and the population which it served, coupled with the ICTY's failure to publicize its work, integrate local actors in the process, and use locally-known approaches to criminal law.<sup>53</sup>

Due to the many drawbacks of international justice systems, addressing injustices of former conflicts must include local involvement. The most effective way to handle post-conflict reconciliation is for the international community to assist a society in dealing with justice and accountability on its own.<sup>54</sup> Balancing domestic and international justice systems in this context, however, can be difficult.<sup>55</sup> For instance, in Kosovo, United Nations authorities implemented regulations that allowed international and domestic judges to work together in local Kosovar courts, permitting

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<sup>49</sup> Carla Del Ponte, Prosecutor of the ICTY, *Statement on the Investigation and Prosecution of Crimes committed in Kosovo*, The Hague (Sept. 29, 1999).

<sup>50</sup> Theissen, *supra* note 32, at 2.

<sup>51</sup> *Id.* at 12.

<sup>52</sup> The Human Rights Center and the International Human Rights law Clinic, University of California, Berkeley, & the Centre for Human Rights, University of Sarajevo, *Justice, Accountability, and Social Reconstruction: An Interview Study of Bosnian Judges and Prosecutors*, 18 Berkeley J. Int'l L. 102, 136-40 (2000).

<sup>53</sup> The Human Rights Center and the International Human Rights law Clinic, University of California, Berkeley, & the Centre for Human Rights, University of Sarajevo, *Justice, Accountability, and Social Reconstruction: An Interview Study of Bosnian Judges and Prosecutors*, 18 Berkeley J. Int'l L. 102, 144-147 (2000).

<sup>54</sup> Neil Kritz, *Accounting for International Crimes and Serious Violations of Fundamental Human Rights: Coming to Terms with Atrocities - A Review of Accountability Mechanisms for Mass Violations of Human Rights*, 59 L. & Contemp. Probs. 127, 148 (1996).

<sup>55</sup> Graybill, *supra* note 38, at 5.

international and domestic lawyers to prosecute and defend accused perpetrators of crimes. This proved difficult, however, because there often were conflicts between local laws and international norms in regard to war crimes evaluated by the court.<sup>56</sup>

Despite potential difficulties, it nevertheless is important to find a way in which domestic and international legal systems can work together. Under international law, states are obligated to investigate, punish and compensate gross human rights violations, crimes against humanity, and war crimes.<sup>57</sup> Further, local approaches to justice seeking must be culturally appropriate and sensitive to local practices.<sup>58</sup> Local court systems will be most effective in allowing community members to identify with the pursuit of justice, since local systems will be more appropriate to a particular society, ensuring strong community participation.<sup>59</sup>

Although local approaches to justice-seeking following a violent conflict may be the most beneficial in reconciliation efforts, many challenges associated with a decentralized approach exist, including: following armed conflict, local justice systems will likely not be traditional and will reflect new power structures; procedural processes will likely not be compatible with international human rights standards; stratification between local and customary systems will be increased; and local court structures may be unwilling or unable to follow due process.<sup>60</sup> In addition, following a conflict, states may lack the resources and infrastructure necessary to conduct proceedings.<sup>61</sup> For instance, in Kosovo and East Timor, many important physical infrastructures were destroyed following the conflict.<sup>62</sup> Nonetheless, domestic legal systems, no matter how undeveloped, create a sense among the

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<sup>56</sup> Wendy S. Betts, Scott N. Carlson, & Gregory Gisvold, *The Post-Conflict Transitional Administration of Kosovo and the Lessons Learned in Efforts to Establish a Judiciary and the Rule of Law*, 22 Mich. J. Int'l L. 371 (2001).

<sup>57</sup> Theissen, *supra* note 32, at 9.

<sup>58</sup> *Id.* at 11.

<sup>59</sup> *Id.* at 3.

<sup>60</sup> *Id.*

<sup>61</sup> *Id.* at 10.

<sup>62</sup> Wendy S. Betts, Scott N. Carlson, & Gregory Gisvold, *The Post-Conflict Transitional Administration of Kosovo and the Lessons Learned in Efforts to Establish a Judiciary and the Rule of Law*, 22 Mich. J. Int'l L. 371 (2001); Hansjorg Strohmeyer, *Making Multilateral Interventions Work: the U.N. and the Creation of Transitional Justice Systems in Kosovo and East Timor*, Fletcher For. World Aff. (2001).

civilian population that the state values justice and will hold criminals accountable for their actions.

An example of a traditional court system is the Gacaca Courts in Rwanda, which were used in addition to the formal court system.<sup>63</sup> The Gacaca (meaning “grass” in Kinyarwan) courts are a traditional community court system, in which elders sat on the grass to solve conflicts in the community.<sup>64</sup> Three pillars of the Gacaca system include: rewarding those who confess to crimes by cutting their prison time in half; highlighting apologies as an important ingredient of reconciliation; and providing reparations to victims.<sup>65</sup> The main goal of the Gacaca system was to restore harmony between those harmed and the perpetrator of crimes.<sup>66</sup> The benefit of using Gacaca Courts is that they address many of the cases that other court systems are not able to deal with due to the large number of cases.

The grassroots approach provides a way for individual community members to feel as though they are personally involved in restoring justice.<sup>67</sup> Some reports indicate that 80% of the population in Rwanda supported the Gacaca process.<sup>68</sup> Although others may have been sceptical about this system, this approach possibly presented the best chance for Rwanda to seek and find justice.<sup>69</sup> According to Rwandan tradition, punitive justice is a necessary requirement in reconciliation.<sup>70</sup> Therefore, an important component of the Gacaca Court in finding reconciliation is its ability to deal with a larger number of perpetrators who may wait decades to be tried in other courts.

## **B. Restorative Justice: The Role of Truth Commissions**

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<sup>63</sup> Graybill, *supra* note 38, at 8.

<sup>64</sup> U.N. IRIN, *Training of Gacaca Judges Begins* (April 10, 2002), available at <http://allafrica.com/stories/200112120059.html>

<sup>65</sup> Graybill, *supra* note 38, at 9.

<sup>66</sup> *Id.* at 8.

<sup>67</sup> Erin Daly, *Between Punitive and Reconstructive Justice: The Gacaca Courts in Rwanda*, 34 Int'l L. & Pol. 355, 356 (2002).

<sup>68</sup> Foundation Hironnelle, *Rwandans Express Mixed Feelings on New Court System*, May 4, 2001, available at <http://www.hironnelle.org>.

<sup>69</sup> Amnesty International, *Rwanda: The Troubled Course of Justice*, AI Index No. AFR 47/010/2000 (2000), available at [www.amnesty.org](http://www.amnesty.org).

<sup>70</sup> Organization for African Unity, *Special Report of the International Panel of Eminent Personalities to Investigate the 1994 Genocide in Rwanda and the Surrounding events*, para. 2.1 (2001), available at <http://www.oau.oua.org/document/ipep/ipep.htm>.

New democracies emerging from massive violence and human rights violations may be unable to prosecute the majority of human rights violators.<sup>71</sup> Therefore, more expansive and creative strategies to address human rights violations must be developed to ensure justice for society as a whole.<sup>72</sup> Criminal justice systems should not just focus on punishing past harms because prosecution only deals with human rights abuses after the fact.<sup>73</sup>

Prosecution and punishment are important components of justice, but they are only post hoc interventions. Justice encompasses the truth, reform of state institutions, reparations for victims and creates initiatives to forge reconciliation. Courts are crucially important in combating impunity, but we dare not confine the struggle for human rights to one set of institutions or one approach to deal with the past.<sup>74</sup>

Not only must survivors of a victimized group heal, but also perpetrators and members of the perpetrator group who did not engage in violence must heal.<sup>75</sup> Perpetrators must acknowledge what they have done and apologize for their actions. Constructive forgiveness may be a way for all parties of the genocide to heal.<sup>76</sup>

Traditional justice systems are designed in such a way to punish individuals who commit crimes, which are the exception in society, rather than the rule. "Once the violation of the law becomes the rule, criminal justice systems simply cannot cope."<sup>77</sup> Restorative justice through truth commissions can serve as a beneficial alternative to traditional justice systems while providing an opportunity for both state and civil society activism. Truth commissions are a good place to start for lasting reconciliation processes, promoting public discourse about previous injustices.<sup>78</sup> They can supplement the work of prosecutions by establishing accountability for widespread abuse

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<sup>71</sup> van Zyl, *supra* note 40, at 1.

<sup>72</sup> *Id.* at 2.

<sup>73</sup> *Id.* at 12.

<sup>74</sup> *Id.* at 21.

<sup>75</sup> Ervin Staub, Laurie A. Pearlman, Alexandra Gubin & Athanase Hagengimana, *Healing, reconciliation, forgiving and the prevention of violence after genocide or mass killing: An intervention and its experimental evaluation in Rwanda*, 24 J. of Soc. & Clinical Psychol. 297, 300-01 (2005).

<sup>76</sup> *Id.* at 297-334.

<sup>77</sup> van Zyl, *supra* note 40, at 15.

<sup>78</sup> *Id.* at 15.

of human rights.<sup>79</sup> Further, they provide a historical record of atrocities and investigate the causes and consequences of atrocities through holding public hearings, conducting fact-finding missions, and recording statements from perpetrators, witnesses, and victims.<sup>80</sup>

The most recent successful example of restorative justice is displayed by the Truth and Reconciliation Commission (TRC) in post-apartheid South Africa.<sup>81</sup> Although lack of resources was one of the primary reasons for implementing a truth commission rather than a pure trial and justice system, the TRC proved quite successful in finding reconciliation in post-apartheid South Africa. One of the most important aspects of the TRC was "official acknowledgement of human rights abuse."<sup>82</sup> This acknowledgement of the wrongfulness of human rights abuses in a public forum communicated a systemic attitude that human rights abuses were unacceptable,<sup>83</sup> making it more likely to prevent them from occurring in the future.<sup>84</sup> Civil society was quite involved in the implementation of the Truth and Reconciliation Commission. For instance, the African National Congress, working in conjunction with the Congress of South African Trade Unions (COSATU), proved critical in mobilizing crowds for mass action.<sup>85</sup>

Two models of reconciliation found in the TRC were: "interpersonal or individual reconciliation," and "national unity and reconciliation," with the goal of creating a nation "democratically at peace with itself."<sup>86</sup> The TRC integrated elements of the justice system along with the standard disclosure system. If an accused individual confessed to a gross human rights violation, a public hearing was conducted by the Amnesty Committee before the person could be granted amnesty. A system of impunity was created largely out of necessity.<sup>87</sup> Due to failures in the criminal justice system in South Africa at

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<sup>79</sup> Evenson, *supra* note 41, at 735.

<sup>80</sup> Diane F. Orentlicher, *Settling Accounts: The Duty to Prosecute Human Rights Violations of a Prior Regime*, 100 Yale L.J. 2537, 2546 n.32 (1991).

<sup>81</sup> Graybill, *supra* note 38, at 5.

<sup>82</sup> van Zyl, *supra* note 40, at 12.

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

<sup>85</sup> Princeton Lyman, *Partner to History: The US Role in South Africa's Transition to Democracy* (USIP, 2002).

<sup>86</sup> Tristan Anne Borer, *Reconciling South Africa or South Africans? Cautionary Notes from the TRC*, 8 Afr. Stud. Q. 19, 23 (2004).

<sup>87</sup> van Zyl, *supra* note 40, at 12.



this time, it would have been nearly impossible to carry through criminal cases for all of the perpetrators of human rights violations during apartheid.<sup>88</sup>

One of the main criticisms of granting amnesty is that it removes the primary deterrent, namely: punishment for engaging in human rights violations.<sup>89</sup> While impunity may weaken trust of legal systems,<sup>90</sup> it nevertheless may be necessary for minor crimes since it allows the legal system to prosecute more severe human rights violators.<sup>91</sup> The importance of the TRC was that it established standards of moral conduct for which individuals would be punished for future violations.<sup>92</sup> The TRC reaffirmed that South Africa adopted the widely accepted view that, under international law, apartheid is a crime against humanity.<sup>93</sup>

Pursuit of truth was the main underlying goal for the TRC.<sup>94</sup> In addition to the systemic importance of revealing the truth and punishing wrongdoers for their actions, the TRC provided a forum for healing. Truth commissions can officially recognize and record human rights violations.<sup>95</sup> The acknowledgement of individual suffering served as an important component to healing and restoring dignity to victims of human rights abuses.<sup>96</sup> Victims' opportunities to be heard and acknowledged in this context aided in their healing processes. Further, reparations contributed to the reintegration of victims and reduced the likelihood of renewed armed confrontation by officially recognizing the harm victims endured.<sup>97</sup> In addition to focusing on healing victims of abuse, the TRC also worked to reintegrate perpetrators of violence into the community. Each week perpetrators and victims came together in a reintegration ceremony in which perpetrators were baptized and then welcomed back into the community.<sup>98</sup>

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<sup>88</sup> *Id.*

<sup>89</sup> *Id.*

<sup>90</sup> *Id.* at 1.

<sup>91</sup> Theissen, *supra* note 32, at 4.

<sup>92</sup> van Zyl, *supra* note 40, at 12.

<sup>93</sup> *Id.* at 13.

<sup>94</sup> *Id.* at 11.

<sup>95</sup> Theissen, *supra* note 32, at 4.

<sup>96</sup> van Zyl, *supra* note 40, at 13.

<sup>97</sup> Theissen, *supra* note 32, at 4.

<sup>98</sup> Priscilla Hayner, *The Sierra Leone Truth and Reconciliation Commission: Reviewing Its First Year*, International Center for Transitional Justice (2004), available at <http://www.ictj.org/images/content/1/0/100.pdf> (last visited Dec. 17, 2007).

### C. The Role of Justice Systems, Truth Commissions, and Other Organizations

Due to the variety of causes and results of conflict, it is not effective to address past injustices from a purely legal perspective or from a purely reconciliation perspective. Post-conflict peacebuilding will be most effective if it is approached from a variety of perspectives. As Archbishop Desmond Tutu has stated: "Unless you move beyond justice in the form of a tribunal there is no hope for Rwanda."<sup>99</sup> Operating both justice systems and truth commissions concurrently may augment the transitional justice process.<sup>100</sup>

The Truth and Reconciliation Commission and the Special Court in Sierra Leone worked to coordinate between its truth commission and court system to deal with past atrocities.<sup>101</sup> The Truth and Reconciliation Commission began on July 5, 2002,<sup>102</sup> and included three phases: a deployment stage; a hearings phase; and a report-writing phase. Statement collection took place from December 4, 2002-April 1, 2003, during which time 6,000 statements were taken.<sup>103</sup> Concurrently, the Special Court also moved forward with proceedings and, during the summer of 2002, three judges of the Trial Chamber and five judges of the Appeals Chamber were appointed.<sup>104</sup> Only individuals who committed the most egregious acts were tried in court.<sup>105</sup>

A combination of the two methods enabled officials to deal with a larger number of cases than the Sierra Leone Court alone would provide. However, the concurrent operation of justice systems and truth commissions

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<sup>99</sup> Graybill, *supra* note 13, 1121.

<sup>100</sup> Evenson, *supra* note 41, at 731.

<sup>101</sup> *Id.* at 739.

<sup>102</sup> Rt. Rev. Dr. Joseph Humper, Chairman, Truth and Reconciliation Commission, Address on the Occasion of the Inauguration of the Commission (July 5, 2002), available at <http://www.sierra-leone.org/josephhumper070502.html> (last visited Dec. 17, 2007).

<sup>103</sup> Sierra Leone Wraps up Atrocities Report, AP, Apr. 1, 2003, 2003 WL 17305145 (2003).

<sup>104</sup> Appointments to Sierra Leone Special Court, M2 Presswire, July 29, 2002, 2002 WL 24370539.

<sup>105</sup> Statute of the Special Court for Sierra Leone, art. 1, sched. To Special Court Ratification Act No. 9, Special Court Agreement, 2002 (Ratification Act), 2002, reprinted in Supplement to the Sierra Leone Gazette Vol. CXXXIII, No. 22, at 2 (Apr. 25, 2002).

in other circumstances or countries could be problematic.<sup>106</sup> Legal dilemmas posed by a combination of approaches include whether statements made in truth commissions should be admissible as evidence in criminal prosecutions, and whether evidence collected in criminal investigations should be available to those conducting the truth commission. Further, it may be unreasonable to expect perpetrators to make statements about their actions if amnesty is not available to them.<sup>107</sup> Despite these potential drawbacks, the hybrid system in Sierra Leone demonstrates one way to coordinate both justice and reconciliation efforts.

Notwithstanding the importance of seeking justice and reconciliation in post-conflict peacebuilding efforts, establishing legal institutions and justice systems alone cannot adequately deal with war-torn societies.<sup>108</sup> Other necessary steps must be taken to rebuild both physical infrastructures and psychological aspects of society.

Conflict not only destroys buildings – it also negatively affects trust, hope, identity, family and relationships.<sup>109</sup> “Stronger state institutions, broader political participation, land reform, a deepening of civil society, and respect for ethnic identities are all seen as ways to improve the prospects for peaceful governance.”<sup>110</sup> In order to reach peace and reconciliation after a conflict, it is necessary to establish legitimate centralized power; improve legitimacy of the state through civic participation; and provide funding supporting peaceful activities. Post-conflict peacebuilding and conflict transformation require a wide range of actors, including: states and inter-governmental organizations; development and humanitarian organizations; international non-governmental organizations (NGOs); and individuals and civil society leaders in affected societies.<sup>111</sup> Since physical infrastructures are often destroyed in conflicts, some argue that it is necessary for the

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<sup>106</sup> Evenson, *supra* note 41, at 731.

<sup>107</sup> *Id.* at 732.

<sup>108</sup> Theissen, *supra* note 32, at 15.

<sup>109</sup> Beatrice Pouligny, *Civil Society and Post-Conflict Peacebuilding: Ambiguities of International Programmes Aimed at Building ‘New’ Societies*, 36 Int’l Peace Res. Inst. 495, 496 (2005).

<sup>110</sup> Michael W. Doyle & Nicholas Sambanis, *International Peacebuilding: A Theoretical and Quantitative Analysis* 94 Am. Pol. Sci. Rev. 779, 779 (2000).

<sup>111</sup> Hugh Miall, *Conflict Transformation: A Multi-Dimensional Task*, Berghof Research Center for Constructive Conflict Management, 12, available at [http://www.berghof-handbook.net/articles/miall\\_handbook.pdf](http://www.berghof-handbook.net/articles/miall_handbook.pdf) (last visited Dec. 17, 2007).

international community to become involved in these goals.<sup>112</sup> Although actors at various levels may work independently to promote peace, there is often overlap and coordination between various groups in peacebuilding efforts.

Professionals in the field of peacebuilding have focused on more policy-based questions concerning design and conduct of a peacebuilding mission, rather than other necessary components, such as connecting practical peace operations with more theoretical debates.<sup>113</sup> This approach has viewed peacebuilding as a theoretical concept, while ignoring the real-life ramifications of peacebuilding missions. This failure to evaluate real-life ramifications of peacebuilding missions may impede their success. Just as legal approaches to post-conflict peacebuilding require local involvement to be effective, non-legal approaches also require involvement of local actors and civil society members.

During conflict times, there may be a sense of anarchy, in which the entire physical and governmental infrastructure of a society has been completely destroyed. Importantly, “international capacities can foster peace by substituting for limited local capacities and alleviating factors that feed deep hostility. Such intervention improves the prospects for peace, but only if the peace operation is appropriately designed.”<sup>114</sup> In the 1990s, United Nations Secretary General Boutros Boutros-Ghali set out to expand the concept of peacemaking in his book, *Agenda for Peace*.<sup>115</sup> The current United Nations model for peacebuilding is based upon these concepts and includes measure such as: placement of military personnel to promote and protect demobilization; disarmament and cantonment of groups in conflict; promotion of democracy by establishing a transitional government; support for and establishment of civilian government and infrastructure, such as law-enforcement personnel; promotion of human rights; return of refugees; and rebuilding of physical infrastructure that was destroyed during the conflict.<sup>116</sup> Although these efforts may have achieved their aims in some regions, in other

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<sup>112</sup> I. William Zartman, *Putting Things Back Together*. In *Collapsed States: The Disintegration and Restoration of Legitimate Authority*, 267-73 (Co: Lynner Rienner 1995).

<sup>113</sup> Roland Paris, *Broadening the Study of Peace Operations*, 2 Int’l Stud. Rev. 27, 29 (2000).

<sup>114</sup> Doyle, *supra* note 111, at 795.

<sup>115</sup> Ghali, *supra* note 17.

<sup>116</sup> Miall, *supra* note 112, at 12.

regions underlying tensions remained due to the ethnic divisions that caused conflict in the first place.<sup>117</sup>

Often a United Nations organization will be designated to coordinate activities of various players in the peacebuilding effort in order to ensure that there will be coherence and accountability. In this capacity, the point-of-contact organization coordinates planning and information-sharing among different entities involved in the post-conflict peacebuilding effort.<sup>118</sup> The post-conflict situation in Kosovo demonstrates the United Nations' coordination of key players in the international community to become actively involved in the post-conflict construction process. In Kosovo, Serb officials had abandoned the country, cutting off funding from municipal governments, and shutting down schools, public transport, and courts, and other vital services. Widespread looting, as well as seizures of homes and property, occurred. Essentially, no functioning government existed.<sup>119</sup> The international community needed to step in to rebuild a sense of order in the Kosovar society.<sup>120</sup>

The Secretary-General created the United Nations Interim Administration Mission in Kosovo to establish an international civil presence and establish a sense of order.<sup>121</sup> Components of this program utilized resources from various entities in the international community, and included: the United Nations Interim Administration Mission to manage public administration and civil affairs, police forces, and judicial affairs;<sup>122</sup> the Organization for Security and Cooperation in Europe for institution-building, which promoted democratization and building of institutions, elections, and enforcement of human rights which was coordinated by the;<sup>123</sup> United Nations High Commissioner for Refugees for humanitarian assistance;<sup>124</sup> and the European Union for reconstruction.<sup>125</sup>

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<sup>117</sup> *Id.* at 12.

<sup>118</sup> William Flavin, *Planning for Conflict Termination and Post-Conflict Success*, 33 *Parameters* 95, 106 (2003).

<sup>119</sup> Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo, UN Doc. S/199/779 (July 12, 1999), *available at* [www.un.org/peace/kosovo/pages/kosovo1.htm](http://www.un.org/peace/kosovo/pages/kosovo1.htm) (last visited Nov. 12, 2007).

<sup>120</sup> Michael J. Matheson, *United Nations Governance of Postconflict Societies*, 95 *Am. J. Int'l L.* 76, 78 (2001).

<sup>121</sup> *Id.*

<sup>122</sup> UN Doc. S/199/779, *supra* note 119, paras. 54-78.

<sup>123</sup> *Id.* at paras. 79-90.

<sup>124</sup> *Id.* at paras. 91-100.

<sup>125</sup> *Id.* at paras. 101-109.

In addition to efforts of the United Nations to promote peace, development organizations in the past few decades have focused on development programs that specifically target peacebuilding efforts. Development aid can also be used directly to mitigate conflict or build programs that focus on reintegrating child soldiers or rehabilitating agricultural capacities. Financial support can be used for capacity-building and mitigating indigenous conflict.<sup>126</sup> In some instances, development organizations have supported United Nations peacebuilding efforts. For instance, donors helped support international efforts in Mozambique to carry out democratic elections, and assisted RENAMO transform into a legitimate political party.<sup>127</sup>

International bodies can be instrumental in establishing a democratic system in post-conflict societies. However, democracies will only be successful and sustainable if a particular country's leaders and citizens support a democratic system.<sup>128</sup> For example, although promotion of democracy in Mozambique was a multi-faceted effort, exclusion of civil society undermined the transition process. Essentially, the international community imposed democracy on Mozambican society without the participation of its citizens. These citizens did not understand their new system of government and voted in democratic elections only out of obligation.<sup>129</sup> *Mozambiquefile* conducted an opinion poll following establishment of the new government, in which the majority of Mozambicans expressed that their situation was worse than before Mozambique's transitioned to democracy.<sup>130</sup>

Although development aid can be instrumental in various projects that promote peacebuilding, development agencies tend to operate in a "laissez faire" manner, leaving much of the work of conflict transformation to non-governmental organizations (NGOs).<sup>131</sup> Non-governmental actors are instrumental in domestic and international policymaking, particularly in the process of democratization.<sup>132</sup>

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<sup>126</sup> Miall, *supra* note 112, at 13.

<sup>127</sup> *Id.*

<sup>128</sup> Santiso, *supra* note 18, 559.

<sup>129</sup> Graham Harrison, *Democracy in Mozambique: The Significance of Multi-party Elections*, 67 Rev. Afr. Pol. Econ. 19, 21 (1996).

<sup>130</sup> *Id.* at 438. (citing *Mozambiquefile*, December 1993).

<sup>131</sup> Miall, *supra* note 112, at 13.

<sup>132</sup> Pouligny, *supra* note 110, at 496.

International NGOs may serve an important role as liaison between international agencies and local communities. In approaching post-conflict peacebuilding, they work closely with individuals closely involved with the conflict to glean an understanding of the roots of the conflict. They also work to create opportunities for discussion and dialogue related to sources of the conflict. Efforts of NGOs in post-conflict peacebuilding may include: “supporting and sustaining local groups and social movements, building peace constituencies, strengthening capacity, empowering key actors, organizational development and networking and training.”<sup>133</sup> Importantly, it has been noted that “due to the limitations of major international organizations to reach local communities, NGOs fill in the gaps between decision-making agencies at the centre and local communities.”<sup>134</sup> Nonetheless, international NGOs may still lack the in-depth cultural understanding of local factors at play in peacebuilding efforts.

Cultural disconnect between the international community’s work toward peacebuilding and needs of local communities and civil societies may thwart peacebuilding efforts. While the international community involved in post-conflict peacebuilding may focus on practical challenges of peacebuilding, they may neglect ideological assumptions under which they are operating.<sup>135</sup> Further, foreign peacekeeping forces will need to establish legitimacy in order to be truly effective in building peace after a conflict. “Enforcement operations can end the violence, but alone they cannot promote durable, democratic peace.”<sup>136</sup>

International actors in post-conflict peacebuilding have, at times, disregarded the important contribution that civil society actors can make to the process. They use reports from international, rather than local, NGOs or hire a foreign expert rather than a local one. These acts are detrimental to the peacebuilding process: failing to gain local perspectives of the situation can result in an inability for key players in the peacebuilding process to understand the cultural context underlying the conflict.<sup>137</sup> There may be traditional practices in a community that will allow for peacebuilding following a conflict. For instance, a healing ceremony in Angola, which

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<sup>133</sup> Miall, *supra* note 112, at 14.

<sup>134</sup> Ho-Won Jeong, *Peace Building: Operational Imperatives and Organizational Co-ordination*, 24 Hiroshima Peace Sci. 1, 2 (2002).

<sup>135</sup> Paris, *supra* note 113, at 30.

<sup>136</sup> Doyle, *supra* note 111, at 795.

<sup>137</sup> Pouligny, *supra* note 110, at 502.

included traditional practices, allowed for a child to be fully accepted upon return to his family.<sup>138</sup>

If local community members are not consulted in circumstances such as the healing ceremony in Angola, then it will become impossible for peacebuilding efforts to be effective. In order to ensure that international peacebuilding efforts are as appropriate and effective as possible, it is necessary to more fully include civil society and local NGOs in post-conflict peacebuilding planning strategies, and project implementation. “The ultimate goal [of long-term peacebuilding] is to turn the country back over to its own people.”<sup>139</sup>

Civil society organizations and local non governmental organizations play the most important role in building peace following a conflict. These players can most fully understand the underlying social components of the conflict. Civil society involvement provides the cultural context and understanding regarding steps that will be beneficial in peacebuilding efforts. Including local players in peacebuilding efforts will not take much extra work from international players; “listening to the resources that ordinary people may mobilize so as to pick up the threads of disrupted history,” is all that is needed.<sup>140</sup> “The objective should be to initiate a process in which local resources, knowledge and information are taken seriously, and then supported and valorized if they concur with the PCPB [post-conflict peacebuilding] objectives, instead of being duplicated or simply ignored.”<sup>141</sup>

One way to build a connection between theoretical concepts of peacebuilding and practical ramifications of peacebuilding efforts, as well as to engage local leaders and civil society actors, is through initiatives associated with building a culture of peace, in which practical measures are taken to change the climate of a society. Through efforts to build a culture of peace, various actors work together to implement programs to change the collective psychology of a society to heal from previous conflict and prevent future conflicts.

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<sup>138</sup> *Refugee children: Guidelines on protection and care*, United Nations High Commissioner for Refugees (1998), available at <http://www.unhcr.org/cgi-bin/texis/vtx/protect/opendoc.pdf?tbl=PROTECTION&id=3b84c6c67> (last visited Dec. 17, 2007).

<sup>139</sup> Flavin, *supra* note 118, at 107.

<sup>140</sup> Pouligny, *supra* note 110, at 502.

<sup>141</sup> *Id.* at 503.



#### IV. Building a Culture of Peace

Societies that have a tradition of dealing with change peacefully are more likely to reach peaceful resolution to a conflict. If leaders handle conflicts constructively, society will likely be more confident in leaders' abilities to manage conflict peacefully.<sup>142</sup> Many societies do not naturally handle conflict peacefully; however, steps may be taken to promote peaceful reconciliations to conflicts. Recently, peace activists have evaluated the reasons behind past conflicts, suggesting that there is a need to transition from a culture of war to a culture of peace.

The term "culture of peace" refers to a set of "values, attitudes, and behaviours that reflect and inspire social interaction and sharing on basic principles," that promotes social justice and non-violence.<sup>143</sup> Elise Boulding defines peace culture as "a mosaic of identities, attitudes, values, beliefs, and institutional patterns that lead people to live nurturantly [sic] with one another and the earth itself without the aid of structured power differentials, to deal creatively with their differences, and share their resources."<sup>144</sup>

Civil society involvement in a cultural of peace movement is particularly important. "Experimenting with non-violent procedures, civil liberties, and electoral processes facilitating orderly and legitimate regime changes can set the stage for the acceptance of peace as a best option for those involved in the conflict."<sup>145</sup> State leaders may not have interest in resolving conflicts because they gain power from a culture of war and receive international financial support when in a state of war.<sup>146</sup> Local NGOs, therefore, can be instrumental in promoting a culture of peace because they do not depend on conflict to gain power; they gain support through member activism.<sup>147</sup> Further, women, children, and oppressed minorities can play an important role in transformation to a culture of peace.

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<sup>142</sup> Miall, *supra* note 112, at 11.

<sup>143</sup> Records of the twenty-eighth session of the General Conference of the United Nations Educational, Scientific and Cultural Organization, Vol. 1, resolution 0.12, Medium-Term Strategy for 1996-2001.

<sup>144</sup> Elise Boulding, *A New Chance for Human Peaceableness?*, 6 Peace & Conflict: J. of Peace Psychol. 193, 196 (2000).

<sup>145</sup> Koonings, *supra* note 6, at 20.

<sup>146</sup> David Adams, *Toward a Global Movement for a Culture of Peace*, 6 Peace & Conflict: J. Peace Psychol. 259, 260 (2000).

<sup>147</sup> *Id.* at 262.

Often initiatives related to building a peace culture are already in place. The culture of peace movement provides a way for these initiatives to come together in order to strengthen and expand already existing movements.<sup>148</sup> The goal of this movement is not to find a quick fix to long-term conflicts, but rather to encourage and establish a complete transformation of social structures. To promote a global movement from conflict to peace, Nobel Peace Laureates have developed the Manifesto 2000, which provides a positive vision for a global movement to peace.<sup>149</sup>

The United Nations General assembly has adopted the Programme of Action on a Culture of Peace,<sup>150</sup> and the United Nations Educational, Scientific, and Cultural Organization (UNESCO) and the United Nations have developed criteria for establishing a culture of peace.<sup>151</sup> These criteria include: education; development; human rights; gender equality; democratization; tolerance and solidarity; communication; and peace and security,<sup>152</sup> all of which provide various contexts within which to discuss various approaches to peacebuilding.

Peace Education: The goals of peace education include changing attitudes, promoting tolerance, addressing prejudices, challenging stereotypes, revising a sense of self versus the other, and building a sense of collective identity. Peace education depends both on teachers and students who can exchange community information, knowledge, and truth.<sup>153</sup> They must have access to all information, with the freedom to communicate with others.<sup>154</sup> Studies implemented with Jewish Israeli and Palestinian children demonstrate that, even in contexts of ongoing violence, participation in peacebuilding exercises results in positive perceptions of one side of the conflict towards the other. Children who participated in peacebuilding activities were more

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<sup>148</sup> *Id.*

<sup>149</sup> *Manifesto 2000*, United Nations Educational, Scientific, and Cultural Organization, available at <http://www3.unesco.org/manifesto2000/> (last visited Dec. 17, 2007).

<sup>150</sup> Adams, *supra* note 146, at 262.

<sup>151</sup> *Id.* at 259.

<sup>152</sup> *Id.* at 261.

<sup>153</sup> Erna Paris, *Long Shadows: Truth, Lies, and History* (UK: Bloomsbury 2001).

<sup>154</sup> Thomas J. Rippon & Stan Willow, *Sierra Leone: A Model for a Program for Action for a Culture of Peace* 6 OJPCR: Online J. Peace & Conflict Resol. 152, 159 (2004).

equipped to empathize with the other side's situation, and were more willing to have dialogue with the other side.<sup>155</sup>

One stellar example of the success of such a peace education program is Seeds of Peace, which began in August 1993. Seeds of Peace brings together youth from conflicting groups to meet their "enemies" for the first time, living in cabins, sharing meals, and participating in summer camp activities. In addition to camp activities, the youth participated in dialogue sessions on a daily basis, which allowed them to share experiences with one another, and to learn about experiences from their counterparts. The main focus of Seeds of Peace is to lay groundwork for sustainable peace through communication and collaboration.<sup>156</sup> Each side of the conflict arrives to camp with emotional baggage and hard feelings towards the other.<sup>157</sup> The camp setting in Seeds of Peace allows youth to meet one another in neutral territory, in which all youth are treated as equals. The program includes three phases: establishment of trust, connection and respect, enhanced empathy, understanding, and awareness of the other side, preparation to return home.<sup>158</sup>

Development: Peace, development, and democracy are inextricably linked.<sup>159</sup> "Societal reconciliation, democratization and economic reconstruction are seen as three mutually reinforcing dimensions of sustainable peace, development and democracy."<sup>160</sup> In order to build peace, it is important "to create a situation, a society or a community in which individuals are enabled to develop and fully use their capacities for creativity, service and enjoyment. Unless development in this sense can take place, no settlement will lead to a secure and lasting peace."<sup>161</sup> Sustained economic and social development requires sound and balanced economic and social strategies.<sup>162</sup>

The United Nations and the World Bank have noted that if poverty, economic problems, and dissatisfaction with politics are not dealt with,

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<sup>155</sup> Gavriel Salomon, *Does Peace Education Make a Difference in the Context of an Intractable Conflict?*, 10 *Peace & Conflict: J. Peace Psychol.* 257, 260 (2004).

<sup>156</sup> Marike van Woerkom, *Seeds of Peace: Toward a Common Narrative*, 102 *New Directions Youth Dev.* 35, 35 (2004).

<sup>157</sup> *Id.* at 38.

<sup>158</sup> *Id.* at 41.

<sup>159</sup> Santiso, *supra* note 18, 558.

<sup>160</sup> Santiso, *supra* note 18, 559.

<sup>161</sup> Adam Curle, *Making Peace* (UK: Tavistock Publications 1971).

<sup>162</sup> Rippon, *supra* note 154, at 160.

intrastate war will never end.<sup>163</sup> In order for conflict settlement to maintain, there must be employment and economic opportunities; otherwise, new violence is likely to erupt.<sup>164</sup> To this end, Allan Gerson suggests developing a Peace Transition Council, in which key players in the peacebuilding area, such as the United Nations, the World Bank, the private sector, and the NGO community partner to provide economic opportunities for post-conflict communities. Gerson argues that this would be a unified approach to devising recovery strategies.<sup>165</sup>

Human Rights: Respect for human rights calls for the transformation of values, attitudes and behaviors from those who benefit exclusively to all humans regardless of status – clan, tribe, or nation.<sup>166</sup> The concept of human rights relates to two bedrock principles: each human being deserves to be treated with respect simply because he/she is a human being, regardless to which group he/she belongs;<sup>167</sup> and all people deserve equal respect of these human rights. Acceptance of the importance of human rights principles supports movement towards a culture of peace, since acceptance of human rights as a given leads to participation of civil society, increases respect for rule of law, and draws negative attention to abuse of power.<sup>168</sup>

Gender Equality: Gender equality is an imperative component to comprehensive peacebuilding efforts. Women, a group that is often excluded from the official negotiation process, can play an important role in peacebuilding.<sup>169</sup> The importance of their role is often not acknowledged due to the fact that their contribution can take on non-traditional forms, may not be formally integrated in the peace process, or may be considered a part of their already existent gender roles.<sup>170</sup> There are also many factors that impede women's ability to contribute to the reconciliation process, including: lack of

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<sup>163</sup> Alan Gerson, *Peace Building: The Private Sector's Role*, 95 Am. J. Int'l L. 102, 102 (2001).

<sup>164</sup> *Id.* at 103.

<sup>165</sup> *Id.* at 113.

<sup>166</sup> Rippon, *supra* note 154, at 161.

<sup>167</sup> Jack Donnelly, *Universal Human Rights in Theory and Practice*, 81 (Cornell University Press 1989).

<sup>168</sup> Julie Mertus, *Improving International Peacebuilding Efforts: The Example of Human Rights Culture in Kosovo* 10 Global Governance 333, 336 (2004).

<sup>169</sup> Elisabeth Porter, *Women, Political Decision-Making, and Peace-Building*, 15 Global Change, Peace & Security 245, 248 (2003).

<sup>170</sup> Richard Strickland & Nata Duvvury, *Gender Equity and Peacebuilding: From Rhetoric to Reality: Finding the Way*, Int'l Dev. Res. Center (2003), available at [http://www.icrw.org/docs/gender\\_peace\\_report\\_0303.pdf](http://www.icrw.org/docs/gender_peace_report_0303.pdf) (last visited Dec. 17, 2007).

social support; personal security; and psychological trauma. Despite these variables, women's unique qualities can contribute greatly to the reconciliation process.<sup>171</sup> In order for peacebuilding efforts to be effective, women must be viewed as equal partners, and must be included in the peacebuilding process.

Although not included in formal peace processes, women are instrumental in activities such as peace protests, dialogue, promotion of tolerance, and empowerment efforts. They likely understand issues underlying the conflict, and can take a more holistic approach to peacebuilding than traditional practices.<sup>172</sup> To this end, on October 31, 2000, the United Nations Security Council adopted Resolution 1325, entitled 'Women, Peace and Security'.<sup>173</sup> This resolution endorses civil society groups, and specifically focuses on women in the peace process. The resolution suggests that the United Nations Security Council, the Secretary-General, member nations, and non-state actors incorporate women in peace processes through including women in decision-making processes; implementing trainings about gender differences in peacebuilding; protecting women, and gender mainstreaming.<sup>174</sup>

**Democratization:** The United Nations has highlighted the importance of democracy and good governance in post-conflict peacebuilding.<sup>175</sup> Democratic participation replaces authoritarian structures of power that sustain a culture of war and violence. Nations with a culture of violence are not known for their democracies or economic prosperity. Conversely, democratic and capitalist states less often engage in war with one another.<sup>176</sup> To this end, the United Nations Development Program worked to establish peace and democracy in El Salvador and Guatemala, and promoted three functions: peace-making through essentially political mediation and electoral observation; peacekeeping through monitoring and verification; and peacebuilding through promotion of institutional reform and state modernization."<sup>177</sup>

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<sup>171</sup> *Id.*

<sup>172</sup> Porter, *supra* note 169, at 246.

<sup>173</sup> UN Security Council, UN Security Council Resolution 1325, SEC/6937 (Oct. 24, 2000), available at <http://www.unfpa.org/women/1325.htm> (last visited Dec. 17, 2007).

<sup>174</sup> *Id.*

<sup>175</sup> Santiso, *supra* note 18, 556.

<sup>176</sup> Rippon, *supra* note 154, at 161.

<sup>177</sup> Santiso, *supra* note 18, 556.

In El Salvador, political leaders conducted the peace negotiations and designed the transition to democracy without involving civil society. This exclusion caused an absence of ownership over the new government, which resulted in apathy and nonparticipation among Salvadorians. Conversely, in Guatemala, civil society participated in the peace process by contributing to the agreement and reform agenda. This involvement allowed civil society to play an on-going role in the democratic process, thereby increasing the stability of the democratic state.<sup>178</sup>

**Tolerance and Solidarity:** Once communities have experienced on-going violence, a peaceful resolution may appear to be out of reach.<sup>179</sup> There must also be a "changed psychological orientation" between the two groups seeking to reconcile.<sup>180</sup> Understanding, tolerance and solidarity transcend and supersede enemy images. In order to humanize the enemy and provide hope that peace is possible, various grassroots initiatives have developed throughout the globe that seek to establish tolerance and solidarity among conflicting groups. Dialogues can be one way of dealing constructively with conflicts.<sup>181</sup> "Working through" differences is defined as "learning to live with the painful past better than one has up to now."<sup>182</sup> Participatory communication replaces secrecy and manipulation of information in a culture of peace.

**Peace and Security:** "Providing security is the primary duty that a state owes to its citizens."<sup>183</sup> Internal peace and security incorporates peace diplomacy, peacekeeping, disarmament and military conversion.<sup>184</sup> "The abandonment of military and repressive logic within the state and state-related political actors is a first condition for a successful peace process and an active

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<sup>178</sup> Koonings, *supra* note 6, at 14.

<sup>179</sup> Rippon, *supra* note 154, at 161.

<sup>180</sup> Staub, *supra* note 75, at 300-01.

<sup>181</sup> Norbert Ropers, *From Resolution to Transformation: The Role of Dialogue Projects*, Berghof Research Center for Constructive Conflict Management (2003), available at: <http://www.berghofhandbook.net/uploads/download/ropers-handbook.pdf> (last visited Dec. 17, 2007).

<sup>182</sup> Dan Bar-On & Fatma Kassem, *Storytelling as a Way to Work Through Intractable Conflicts: The German-Jewish Experience and its Relevance to the Palestinian-Israeli Context*, Ben Gurion University of the Negev Department of Behavioral Sciences (2004), available at <http://www.allastar.net/Life/dan1.pdf> (last visited Dec. 17, 2007).

<sup>183</sup> Keith Krause & Oliver Jutersonke, *Peace, Security and Development in Post-Conflict Environments*, 36 *Security Dialogue* 447, 450 (2005).

<sup>184</sup> Rippon, *supra* note 154, at 162.

role of civil society...”<sup>185</sup> In addition to seeking justice, individuals must first have a minimum level of physical safety and stability, and must take into considering the needs of people who have been living in an on-going conflict.<sup>186</sup> Since true healing can only occur when a victim has a sense of security, it is imperative that two groups living together after a conflict have a high level of psychological security.<sup>187</sup>

Building a culture of peace is a way of approaching conflicts from a preventative perspective. International players in peace processes may consider the realms of education; development; human rights; gender equality; democratization; tolerance and solidarity; communication; and peace and security when considering ways to establish cultures of peace in communities that have experienced conflict and violence. These initiatives are likely also a beneficial way to incorporate civil society actors in post-conflict peacebuilding efforts.

## V. Conclusion

In some parts of the world, conflict is an ongoing, seemingly endless, struggle. The international community has been involved in conflicts throughout the globe, particularly since the Cold War ended. Civil society involvement is one of the most important factors in determining whether a post-conflict peacebuilding initiative will be successful. Efforts put forth by local government officials or the international community likely will be unsuccessful in post-conflict peacebuilding if civil involvement is not present. Studies have found that civil society involvement is one of the most important factors in determining whether post-conflict initiatives will be successful and sustainable.

Approaches to post-conflict peacebuilding can be both legal and non-legal in nature. Building the rule of law and enforcing justice is of the utmost importance because it creates a sense of order and governance following the chaotic experience of conflict. Various legal approaches following conflict include international and domestic court systems, truth commissions, and hybrid systems incorporating both justice systems and truth commissions.

Since conflict destroys physical and social structures of societies, it is important to approach post-conflict peacebuilding from non-legal approaches

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<sup>185</sup> Koonings, *supra* note 6, at 20.

<sup>186</sup> Theissen, *supra* note 32, at 11.

<sup>187</sup> Staub, *supra* note 75, at 301-02.

as well. Various actors, such as states and inter-governmental organizations, development and humanitarian organizations, international non-governmental organizations, civil society organizations, and local nongovernmental organizations, work on various aspects of post-conflict peacebuilding.

One way to incorporate these joint efforts is to design projects with the aim of building a culture of peace. United Nations-established criteria for building a culture of peace include education; development; human rights; gender equality; democratization; tolerance and solidarity; communication; and peace and security. Players involved in these efforts have implemented projects in some of these categories. However, work towards building a culture of peace is in its nascent stages. Individuals and organizations involved in post-conflict peacebuilding may consider the above categories when implementing projects to change societies from a culture of war to a culture of peace.

Conflict is an extremely complicated, multi-faceted phenomenon which has occurred throughout history, and will likely continue as long as mankind exists. There are a wide variety of factors underlying conflicts and, therefore, no one-size-fits-all panacea can be found for post-conflict peacebuilding. This article has provided a broad overview of various approaches to peacebuilding following a conflict, and building a culture of peace to mitigate and prevent violent conflict in the future.